IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15129 of 1997

Between:

V. Vinod, S/o Sattaiah, 40 years, Old Bazar, Karimnagar.

..... PETITIONER

AND

Licensing Officer (Regional Transport Officer), Karimnagar.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari or any other writ, order or direction, calling for the concerned records from the file of the respondent herein and quash the demand notice of the respondent dt.29.5.1997 passed in Rc.No.4599/A3/97 demanding a sum of Rs.1,40,930/- towards difference of tax in respect of the petitioner's bus AIM 302.

Counsel for the Petitioner:MR.P.RAJAGOPALA CHARY

Counsel for the Respondent:GP FOR TRANSPORT

The Court made the following:

ORDER: (Per the Hon'ble Sri Justice Bilal Nazki.J)

Heard learned counsel for the parties.

The bus bearing No. AIM 302 was stopped and checked by the Motor Vehicle Inspector, Karimnagar on 24.04.1997 at Durshed, while it was proceeding from Peddapally to Karimnagar. It was found carrying 32 passengers. The vehicle had no route permit and the tax was paid at the rate of Rs.10/- per seat for the quarter ending 30.06.1997. Therefore, the vehicle was seized, enquiry was conducted and the vehicle was released on payment of Rs.1,000/-, on the orders of this Court in W.P.No.8750 of 1997. Thereafter, a show cause notice was issued to the petitioner to pay an amount of Rs.1,40,930/- for the quarter ending 30.06.1997 by way of tax. After the petitioner filed his reply, final order was passed making a demand of Rs.1,40,930/- from the petitioner, which has been challenged in this writ petition.

We have been shown a notification issued in G.O.Ms.No.220, Transport, Roads and Buildings (TR.II), dated 07.11.1996, which is an amendment to the A.P. Motor Vehicles Taxation Act. Explanation II of the said G.O., is to the effect that in the case of motor vehicle plying without a permit granted under the M.V.Act, 1988, be reckoned as above 320 kms. Explanation V says that if exceeds 320 Kms., the rate of tax shall be Rs.790/- per seat. Therefore, the learned counsel for the petitioner submits that in view of this amendment, even

if the whole case of the respondent is taken to be true, the petitioner could be burdened with only Rs.790/- per seat, for the period in question.

We are accepting the contention of the learned counsel for the petitioner and direct that tax shall be paid by the petitioner at the rate of Rs.790/- per seat for 57 seats, duly deducting the amount already paid by the petitioner. Let a fresh notice of demand be issued by the respondent to the petitioner in terms of this order.

The writ petition is accordingly disposed of. Notice dated 29-05-1997 is quashed. No order as to costs.

Bilal Nazki, J

S.Ananda Reddy, J

27th October, 2004.

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To

1. The Licensing Officer (Regional Transport Officer), Karimnagar.
2. Two CCs to the G.P. for Transport, High Court Buildings, Hyderabad (OUT).
3. Two CD copies.